

David L. Mazaroli (DM-3929)  
Attorney for Plaintiff  
11 Park Place – Suite 1214  
New York, NY 10007-2801  
Tel. (212)267-8480  
Fax. (212)732-7352  
*e-mail: dlm@mazarolilaw.com*

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
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INDEMNITY INSURANCE COMPANY :  
OF NORTH AMERICA, : ECF CASE  
Plaintiff, : 07 Civ. 3374 (GEL)  
- against - : **COMPLAINT**  
M/V “LONDON EXPRESS”, her engines, :  
tackle, boilers, etc.; HAPAG-LLOYD :  
CONTAINER LINIE GMBH; HAPAG- :  
LLOYD CONTAINER LINE; HAPAG- :  
LLOYD (AMERICA) INC.; :  
Defendants. :  
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Plaintiff, through its undersigned attorney, alleges as follows for its complaint against defendants:

1. This action involves an admiralty and maritime claim within the meaning of Rule 9(h) with respect to the carriage of the subject cargo by sea and falls within the Court’s pendent, ancillary, and supplemental jurisdiction as to the remaining aspects of the claim. Plaintiff seeks recovery for cargo loss and damage caused by defendants’ breaches of contract and torts.

2. Plaintiff Indemnity Insurance Company of North America sues herein as the subrogated insurer of the cargo in suit, having paid the insurance claim of Gold

Harbor Commodities, Inc., and for and on behalf of the shipper, consignee and owner of the cargo as their interests may appear.

3. The captioned defendants are believed to be corporations organized under the laws of foreign sovereigns or one of the fifty states. Upon information and belief defendants are engaged in the business of common carriers, bailees, warehousemen, and/or the provision of services related to such activities, and conduct such business with respect to shipments to, from and within the State of New York and the United States as a whole within the meaning of Rule 4(k)(2) Federal Rules of Civil Procedure.

4. Upon information and belief the captioned vessel is now, or will be during the pendency of this action, within the admiralty and maritime jurisdiction of this Honorable Court or is otherwise subject to jurisdiction pursuant to Rule 4(k)(2) Federal Rules of Civil Procedure.

5. This action involves loss and damage to a shipment of 2,205 cartons of fresh fruits, including apples and pears, which moved, or was intended to move, in containers HLCU4775116 and HLXU6703050 aboard the M/V "LONDON EXPRESS", Voyage 38E48, from Seattle, Washington, to Buenaventura, Colombia, as described more fully in Hapag-Lloyd bill of lading HLCUHO1041215670 dated on or about December 20, 2004, and others (Hapag-Lloyd Ref.: 58922)

6. The aforementioned loss and damage was caused by the unseaworthiness of the carrying vessel and containers as well as defendants' reckless failure to properly load, stow, carry, discharge, deliver and care for the subject cargo, and their unreasonable deviation from the terms of the contract of carriage.

7. As a result of the foregoing, plaintiff and those on whose behalf it sues, has sustained damages in the amount of \$13,996.60 for which defendants are jointly and severally liable as common carriers bailees and/or warehousemen for hire.

8. Plaintiff sues on its own behalf and as agent and trustee for and on behalf of anyone else who may now have or hereafter acquire an interest in this action.

WHEREFORE, plaintiff demands judgment against defendants jointly and severally in the amount of \$13,996.60 together with interest at the rate of 9% per annum and the costs of this action and prays that this Honorable Court issue its process against the aforesaid vessel in rem.

Dated: New York, New York  
April 26, 2007

LAW OFFICES,  
DAVID L. MAZAROLI

*s/David L. Mazaroli*

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David L. Mazaroli (DM 3929)  
Attorney for Plaintiff  
11 Park Place - Suite 1214  
New York, New York 10007  
Tel.: (212)267-8480  
Fax.: (212)732-7352  
E-mail: dlm@mazarolilaw.com  
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